



SACHI A. HAMAI
EXECUTIVE OFFICER

COUNTY OF LOS ANGELES BOARD OF SUPERVISORS

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500 WEST TEMPLE STREET, ROOM 383
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MEMBERS OF THE BOARD

GLORIA MOLINA

MARK RIDLEY-THOMAS

ZEV YAROSLAVSKY

DON KNABE

MICHAEL D. ANTONOVICH

February 01, 2011

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

9 February 1, 2011

Sachi A. Hamai
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EXECUTIVE OFFICER

Dear Supervisors:

APPROVE THE RECOMMENDATION OF A REFEREE TO GRANT AN APPEAL FILED BY REPRESENTATIVES OF DENA INN APARTMENT MOTEL LOCATED AT 7243 PEARBLOSSOM HIGHWAY IN LITTLEROCK IN ACCORDANCE WITH COUNTY CODE SECTION 4.72.260 (Fifth District) (3-Votes)

SUBJECT

As a result of an audit of hotel/motel operators in unincorporated areas of Los Angeles County, and through the appeal process, it has been determined that the County owes Dena Inn Apartment Motel, located at 7243 Pearblossom Highway in Littlerock, a refund of \$65.92 in accordance with Los Angeles County Code (Code) Chapter 4.72, Transient Occupancy Tax.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve the recommendation in the attached report from the Referee to overturn the findings of the Treasurer and Tax Collector in response to the appeal filed by Dena Inn Apartment Motel.
2. Instruct the Treasurer and Tax Collector to issue a refund to Dena Inn Motel in the amount of \$65.92 in accordance with Code Section 4.72.300.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Through an independent auditing firm retained by the Treasurer and Tax Collector through the Auditor-Controller's Master Agreement, the County conducted an audit of hotels/motels in unincorporated areas of the County to determine if they were paying the tax for Fiscal Year 2007-08. The auditing firm concluded that Dena Inn Apartment Motel had not paid all required taxes and owed

the County \$291.

On August 31, 2009 the TTC issued a letter entitled "Audit Invoice" to Dena Inn Apartment Motel confirming the results of the audit: The letter also indicated that there was a previously documented overpayment by Dena Inn Apartment Motel for a prior fiscal year totaling \$356.92 so the net due to Dean Inn Apartment Motel therefore was \$65.92 (i.e., \$356.92 less \$291).

The letter further indicated that, if Dena Inn Apartment Motel should have reason to believe that the audit was incorrect, pursuant to Section 4.72.230 of the Code, they could appeal the findings within ten days, "otherwise the determination shall become final and conclusive." Dena Inn did not appeal the findings.

TTC staff and the auditors subsequently reviewed some of the underlying documents related to the auditor's review of Dena Inn Apartment Motel. Based on this review, TTC sent Dena Inn Apartment Motel a letter, dated February 22, 2010, informing them that they now owed the County \$815.08.

Dena Inn Apartment Motel filed an appeal of the audit findings with the Treasurer and Tax Collector in accordance with Section 4.72.240 of the Code. The appeal was held on April 21, 2010.

On October 6, 2010, the Treasurer and Tax Collector notified Dena Inn Apartment Motel that the appeal was denied and that they still owed to the County \$815.08.

Dena Inn Apartment Motel representatives appealed this finding, in accordance with Section 4.72.250 of the code, resulting in the second level appeal heard on November 18, 2010. The Referee appointed to hear this matter concluded that determination of the Treasurer and Tax Collector was incorrect because the amounts owed in the August 31, 2009 letter were final and conclusive, and that the County owes Dena Inn a refund of \$65.92.

FISCAL IMPACT/FINANCING

The refund to Dena Inn Apartment Motel will be paid out of the County general fund.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Code Chapter 4.72 requires hotel/motel operators in the unincorporated area of the County to collect Transient Occupancy Tax at a rate of 12 percent and remit the collected tax monthly to the Treasurer and Tax Collector. The Code also permits the Treasurer and Tax Collector to audit hotel/motel operators for a period of up to three years.

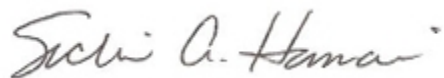
The Code permits hotel/motel operators who disagree with the audit findings to appeal the findings first to the Treasurer and Tax Collector, and then to your Board, who may either hear the appeal or appoint a Referee.

On June 4, 2008, your Board authorized the Executive Officer of the Board of Supervisors to appoint experienced and qualified senior County managers, or qualified senior managers who have retired from County service, to act as Referees, pursuant to Code Section 4.72.270.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

No impact.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Sachi A. Hamai". The signature is fluid and cursive, with a small mark at the end.

SACHI A. HAMAI
Executive Officer, Board of Supervisors

SAH:da

Enclosures

c: Chief Executive Officer
Auditor-Controller
County Counsel
Treasurer and Tax Collector

December 20, 2010

Sachi Hamai, Executive Officer
County of Los Angeles, Board of Supervisors
500 West Temple Street
Los Angeles, CA 90012

Dear Ms. Hamai:

**Re: TRANSIENT OCCUPANCY TAX THIRD LEVEL APPEAL HEARING
DENA INN APARTMENT MOTEL**

Representatives of the Dena Inn Apartment Motel located at 7243 Pearlblossom Highway in Littlerock filed an appeal of the Treasurer Tax-Collector's (TTC) determination that Dena Inn owes the County a net of \$815.08 in unpaid Transient Occupancy Taxes, including the associated interest and penalties.

In accordance with County Code Section 4.72.260, I served as a Referee and heard the second appeal of this issue on November 18, 2010. My obligations as Referee were to hear the appellant and any other competent witnesses and decide whether the determination of the TTC was correct or not, and if not what tax, interest or penalties, if any, are due to the County from the appellant.

Conclusion

In my opinion, the determination of TTC was incorrect and the County owes Dena Inn a refund of \$65.92. Additional detail is included in the body of this letter.

Background

Section 4.72 of the County Code applies to all hotel/motel operators in the unincorporated area of the County. Basically, it requires the hotel operators to collect a tax equal to 12% of the total rent paid for all persons defined by the Code as a transient and to remit these payments to the County on a monthly basis. In general, the code defines a transient as any person staying at the hotel for a period of 30 consecutive calendar days or less. The code does provide for waiving the tax for the first 30 days in cases where there is a written agreement, in advance, documenting the fact that the person intends on staying at the hotel for a period in excess of 30 days.

The County hired an independent auditing firm to conduct an audit of all hotel/motel operators to determine if they were paying the tax for fiscal years 2007-08. The Auditor issued a report related to their review of Dena Inn concluding that Dena Inn owed the County \$291.

On August 31, 2009 the TTC issued a letter entitled "Audit Invoice" to Dena Inn confirming the results of the audit. The letter indicated that:

- ❖ For the period of 2007-08, Dena Inn under-reported some taxable receipts and as a result owed the County \$291.
- ❖ That there was a previously documented overpayment by Dena Inn for a prior fiscal year totaling \$356.92
- ❖ That the net due to Dean Inn therefore was \$65.92 (i.e., \$356.92 less \$291).

The letter further indicated that, if Dena Inn should have reason to believe that the audit was incorrect, pursuant to Section 4.72.230 of the Code, they could appeal the findings within ten days, "otherwise the determination shall become final and conclusive." Dena Inn did not appeal the findings.

During the latter part of 2009, TTC staff reviewed some of the underlying documents related to the Auditor's review of Dena Inn. They believed that the Auditor had mistakenly accepted some registration cards as documentation that certain of Dena Inn's occupants were exempt from the tax. The Auditor re-examined the documents and based on this review, TTC sent Dena Inn a letter on 2-22-10 informing them that they now owe the County \$815.08.

First Level Appeal

Dena Inn requested an appeal of the revised amount owed. That appeal was heard on April 21, 2010. On October 6, 2010, TTC issued a letter to Dena Inn informing them that the appeal was denied.

Second Level Appeal

I heard the Second Level appeal on November 18, 2010. Mr. Kamal Al-Khatib, the operator of the Dena Inn was present at the hearing as well as staff from TTC, County Counsel and the Auditor-Controller.

Mr. Al-Khatib argued that the amounts owed in the letter issued by TTC on August 31, 2009 should be final. I concur.

Section 4.72.230 of the County Code states that within 10 days after the hotel operator is served with an invoice for taxes due, the operator may apply in writing to TTC for a hearing on the amount assessed. If the operator does not make a request for this hearing the tax, interest and penalties, if any, as determined by the TTC shall become final and conclusive and immediately due and payable.

In this case, Dena Inn was served with the invoice related to the 2007-8 fiscal year on August 31, 2009. Dena Inn did not file an appeal of TTC's original findings and further, effectively made a payment of the taxes due the County for fiscal year 2007-08 through the application of the refund that they were due for a previous year. As such, in accordance with the County Code, the amounts determined owed as detailed in the August 31, 2009 audit invoices should be viewed as final and conclusive. Therefore, I believe that Dena Inn is now due a net refund of \$65.92.

Please let me know if you have any questions.

Sincerely:

A handwritten signature in cursive script, reading "David Lambertson", followed by a horizontal line extending to the right.

David Lambertson.

December 20, 2010

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Los Angeles, CA 90012

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